

BEFORE THE ARKANSAS CEMETERY BOARD

IN THE MATTER OF

EASLEY CHENAULT ENTERPRISES, INC.,
D/B/A MEMORIAL GARDENS CEMETERY,
SHERIDAN, ARKANSAS

Order Approving Change
of Ownership Application
Pursuant to Ark. Code
Ann § 20-17-1012

ORDER NO. 00-054-C

ORDER

On this 27th day of September, 2000, the matter of Easley-Chenault Enterprises, Inc. d/b/a Memorial Gardens Cemetery, Sheridan, Arkansas, ("Seller") and the Memorial Gardens Cemetery Permanent Maintenance Trust Fund ("Trust Fund"), comes on to be heard by the Arkansas Cemetery Board ("Board"). From the Legal Notice and Agenda, proof of proper and timely publication of the same, testimony of Charles F. Handley, the exhibits and all other matters presented, the Board, being well and sufficiently advised as to all matters of fact and law herein, hereby finds, concludes and orders as follows:

FINDINGS OF FACT

1. The Seller is the owner and operator of Memorial Gardens Cemetery ("Cemetery"), a perpetual care cemetery in or near Sheridan, Arkansas, within the meaning of the Cemetery Act for Perpetually Maintained Cemeteries, Act 352 of 1977, as amended ("Act"), and is subject to the Act, Board and the Rules issued by the Board ("Rules").
2. The Trust Fund is a cemetery permanent maintenance trust fund which is subject to the Act, Board and Rules.
3. On September 5, 2000, an Arkansas corporation named Walton Interests, Inc. ("Applicant"), and the Seller filed a change of ownership application with the Board which reflected that the Applicant was purchasing the cemetery land and other cemetery assets from the Seller.
4. This change of ownership application contained the following documents and information:

- A. A \$100.00 filing fee;
- B. A statement of the proposed changes to the permit;
- C. A copy of the amended rules and regulations for the Cemetery;
- D. A proposed amendment to the Trust Agreement;
- E. A statement regarding the proposed transfer;
- F. A statement that the Applicant does not currently own and operate any other cemetery;
- G. A statement that there are no legal proceedings pending against the Applicant;
- H. A statement that the Applicant will assume the responsibility and liability on the Seller's outstanding accounts receivable and will deliver the burial merchandise for all outstanding paid-in-full but not delivered merchandise contracts;
- I. A statement that the Applicant will continue to deposit 20% of the gross sales price of lot sales when the sales contract is paid in full;
- J. Financial statements on the Applicant prepared by a CPA;
- K. A statement that the land covered by the permit shall remain the same;
- L. A copy of the Cemetery Company Annual Report for the period January 1, 2000, through September 15, 2000;
- M. A copy of the Trust Fund's Trustee Annual Report for the period January 1, 2000, through September 15, 2000;
- N. A listing of all outstanding paid-in-full but undelivered merchandise and service contracts of the Seller;
- O. A statement that there will be no mortgage or lien on the cemetery land;
- P. A statement that the Seller has no outstanding accounts receivables; and
- Q. A title insurance policy which shows the Seller has good title to the cemetery land.

CONCLUSIONS OF LAW

5. Ark. Code Ann. § 20-17-1012 and Rule 11 require that when any cemetery company subject to the provisions of the Act is to be sold or the ownership otherwise transferred, or a controlling interest in same is sold or so transferred, the cemetery company to whom the current permit is issued or the cemetery company proposing to purchase shall file an application for the issuance of a new permit with the Board, and the Board shall approve the application before a new permit is issued.
6. Ark. Code Ann. § 20-17-1012 and Rule 11 require that an application for change of ownership of a cemetery which is subject to the Act contain certain specific information and documents.

OPINION

7. The Seller and the Applicant have filed all of the information and documents required by the Act and Rules to be made a part of an application for a change of ownership of a perpetual care cemetery except proof that certain burial vaults and markers which have been paid for in full have been purchased and delivered to or placed in inventory for the benefit of the purchaser by the Seller.

ORDER

IT IS THEREFORE ORDERED that the change of ownership application be approved as filed and a new permit be issued to the Applicant to own and operate the Cemetery as a perpetual care cemetery conditioned on the Applicant and Seller filing proof with the Board that they have within sixty (60) days of the date of this Order purchased and delivered or placed in inventory the burial vaults and markers which are due from the Seller. If the Seller and Applicant do not file such proof with the Board that it has met the above condition within the stated time limit the perpetual care cemetery permit issued to the Applicant shall become null and void.


IT IS FURTHER ORDERED that the Applicant shall continue to deposit twenty percent (20%) of the gross sales price of lot sales to the Trust Fund for each such paid-in-full contract sold in the Cemetery.

This order having been omitted from the records is entered nunc pro tunc.

DATED THIS 29th DAY OF SEPTEMBER, 2000

ARKANSAS CEMETERY BOARD


DILLARD MARTIN, Chairman


MAC DODSON, Secretary